

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FRANK VERA,

Plaintiff,

- against -

NEW YORK STATE DEPARTMENT OF  
CORRECTIONAL SERVICES et al.,

Defendants.

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**CHIN, District Judge**

ORDER

08 Civ. 9636 (DC)

The Court has twice attempted to mail Orders to pro se plaintiff Frank Vera, and each time the envelope has been sent back marked, "Return to Sender." The Court recently discovered, after checking the New York State Department of Correctional Services ("DOCS") website, that plaintiff has been released from prison. He has not provided the Court with his current mailing address. Nor does the DOCS website provide a forwarding address.

On April 28, 2009, defendants DOCS, Commissioner Brian Fischer and Superintendent Ercole -- the only defendants who have been served by plaintiff -- moved to dismiss the complaint on a number of different grounds. Plaintiff is hereby ordered to respond to the motion by May 29, 2009. If he fails to do so, the Court will grant the motion by default or decide it without the benefit of plaintiff's input.

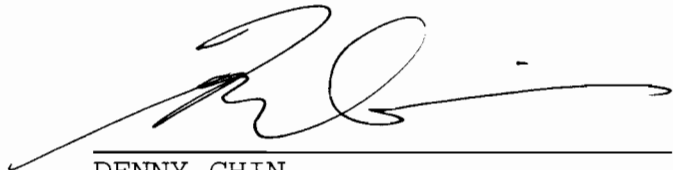
As to the remaining defendants, more than 120 days have elapsed since this action was commenced on November 24, 2008, and plaintiff has failed to file an affidavit of service with the

Court attesting to service of the summons and complaint on defendants Sergeant K. O'Connor, Correctional Officer Mrzyglod, and Correctional Officer Filipponi. Accordingly, this action will be dismissed as to these defendants without prejudice unless plaintiff, within thirty days from the date of this order, that is, on or before May 29, 2009, either (1) files proof of service with the Clerk of the Court, or (2) shows cause in writing why a further extension of the time limit for service is warranted. See Fed. R. Civ. P. 4(m).

Because the Court does not have plaintiff's current mailing address -- due to plaintiff's failure to provide it -- the Court will mail a copy of this Order to plaintiff's last known address.

SO ORDERED.

Dated: New York, New York  
April 29, 2009

  
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DENNY CHIN  
United States District Judge